

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY-AMERICAN)	CASE NO.
WATER COMPANY FOR AN ADJUSTMENT OF)	2015-00418
RATES)	

ORDER

On January 29, 2016, Kentucky-American Water Company ("KAW") submitted an application requesting Commission approval of: (1) an increase in its base water rates based upon a forecasted test period; (2) the establishment of a Qualified Infrastructure Program surcharge; and (3) an increase in tap-on fees. On February 5, 2016, the Commission entered Orders granting requests for full intervention by the Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc., Lexington-Fayette Urban County Government, and the Attorney General of the Commonwealth of Kentucky ("AG").¹

On February 8, 2016, the Commission received a request for intervention submitted by Jeanne Connell. Ms. Connell's request includes, among other things, a challenge to KAW's meter readings of her usage and the expression of a concern about KAW's use of a vehicle.² On February 15, 2016, KAW filed its Response to Jeanne Connell's Request for Intervention. KAW states that Ms. Connell's request does not

¹ Orders (Ky. PSC Feb. 5, 2016).

² Jeanne Connell's Request for Intervention (filed Feb. 9, 2016) at 1.

meet the Commission's requirements for intervention. Specifically, KAW states that Ms. Connell's request fails to state her interest in the case and how her intervention is likely to present issues or develop facts that will assist the Commission in fully understanding the matter without unduly complicating or disrupting the proceedings.³ KAW further states that "Ms. Connell's request offers nothing in the way of a special interest in this proceeding that is not otherwise represented or that her intervention will assist the Commission in fully considering the matter."⁴

KAW states that Ms. Connell's request is, in substance, "actually a letter protesting the required rate increase."⁵ Relying upon Commission precedent for requests for intervention that KAW asserts are similar to Ms. Connell's request, KAW argues that Ms. Connell does not represent a particular segment of KAW's customer base, that she does not demonstrate qualifications, experience, or background to assist the Commission, and that her interest is fully and aptly represented by the AG.⁶

Discussion

The only person with a statutory right to intervene is the AG. Pursuant to KRS 367.150(8)(b), the AG is authorized to appear before, among other things, any "rate-making or regulatory body or agency, to represent and be heard on behalf of consumers' interest." On February 1, 2016, the AG petitioned for full intervenor status in this case, noting that KRS 367.150(8) "grants him the right and obligation to appear

³ KAW's Response to Jeanne Connell's Request for Intervention ("Response to Ms. Connell's Request") (filed Feb. 15, 2016) at 1.

⁴ *Id.*

⁵ *Id.* at 2.

⁶ *Id.* at 2 and 3.

before regulatory bodies of the Commonwealth of Kentucky to represent the consumers' interest."⁷ We granted the AG's petition by an Order entered February 5, 2016. Intervention by all others is permissive and is within the sound discretion of the Commission.⁸

In exercising our discretion to determine permissive intervention, there are both statutory and regulatory limitations on the Commission. The statutory limitation, KRS 278.040(2), requires that "the person seeking intervention must have an interest in the 'rates' or 'service' of a utility, since those are the only two subjects under the jurisdiction of the PSC."⁹ The regulatory limit is set forth in 807 KAR 5:001, Section 4(11). That regulation requires a person seeking intervention to file a request in writing which "shall state his or her interest in the case and how intervention is likely to present issues or develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings."¹⁰ 807 KAR 5:001, Section 4(11)(b) further provides:

The commission shall grant a person leave to intervene if the commission finds that he or she has made a timely motion for intervention and that he or she has a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.

⁷ AG's Motion to Intervene at 1.

⁸ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966)

⁹ *EnviroPower, LLC v. Public Service Commission*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

¹⁰ 807 KAR 5:001, Section 4(11)(a)(1).

We find that Ms. Connell does not articulate that she has a special interest in this proceeding or that she is likely to present issues or develop facts that will assist the Commission in fully considering this matter. Further, we can only infer from the statements in Ms. Connell's request that she is a KAW customer. To the extent that she is a customer, we find that the AG has been granted full intervention and has the obligation to appear before the Commission to represent the consumers' interest.¹¹

Having determined that the requisites of 807 KAR 5:001, Section 4(11), have not been satisfied, the Commission finds that it should deny Ms. Connell's request for intervention. We note, nonetheless, that Ms. Connell will have ample opportunity to participate in this proceeding even though she is not being granted intervenor status. She may submit written comments that will be entered in the record of this case and may also attend and provide comments at any hearing in this case. All such comments submitted by Ms. Connell will be considered by the Commission. She may also keep abreast of the status of the case and filings by monitoring the case through the Commission's website. Ms. Connell's statements challenging KAW's meter readings of her water usage should be treated as an Informal Complaint as per KAR 5:001, Section 21(1), and referred to the Commission's Division of Consumer Services.

IT IS THEREFORE ORDERED that:

1. Ms. Connell's request for intervention is denied.
2. Ms. Connell's statements challenging KAW's meter readings of her water usage shall be referred to the Commission's Division of Consumer Services for review as an informal complaint.

¹¹ KRS 367.150(8)(b).

By the Commission

ENTERED ²⁰
FEB 29 2016
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

Carol D. Humwell for
Acting Executive Director

Case No. 2015-00418

*Andrea C Brown
Lexington-Fayette Urban County Government
Department Of Law
200 East Main Street
Lexington, KENTUCKY 40507

*Linda C Bridwell
Director Engineering
Kentucky-American Water Company aka Kentucky
2300 Richmond Road
Lexington, KY 40502

*Angela M Goad
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KENTUCKY 40601-8204

*Monica Braun
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

*Honorable Iris G Skidmore
415 W. Main Street
Suite 2
Frankfort, KENTUCKY 40601

*Honorable David J. Barberie
Managing Attorney
Lexington-Fayette Urban County Government
Department Of Law
200 East Main Street
Lexington, KENTUCKY 40507

*Janet M Graham
Commissioner of Law
Lexington-Fayette Urban County Government
Department Of Law
200 East Main Street
Lexington, KENTUCKY 40507

*Honorable Lindsey W Ingram, III
Attorney at Law
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

*Kentucky-American Water Company aka
2300 Richmond Road
Lexington, KY 40502